

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Emissions Factors
(LAC 33:III.501) (AQ240)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501 (Log #AQ240).

This rule clarifies requirements in LAC 33:III.919 concerning emission inventory and in LAC 33:III.507.H concerning annual compliance certification. The intent of this rule is to permit the department to determine the actual basis of apparent changes in emissions when there is an emission limit discrepancy between a facility's permitted limit (pursuant to Chapter 5) and the emission estimate reported in the facility's emission inventory statement (pursuant to Chapter 9). This rule provides a mechanism to allow the department an opportunity to assess and validate the basis of the noted emission level change. The rule clarifies how facility compliance is to be assessed when prescribed emission factors are changed. Emission factors set forth in the EPA-approved Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be revised. A periodic review of the approved AP-42 factors or department estimation methods may cause such emission factors to be changed upward or downward due to receipt of improved data. Emissions changes due solely to changes in AP-42 factors, for some facilities, may result in changes in calculations of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some affected facilities may elect to reduce or cease operations due to the economic burden of these enforcement actions. This would have economic consequences for the firms involved, as well as their employees, suppliers, and customers. This proposed regulation allows the department to review these emission factor changes on a case-by-case basis. This rule will promulgate Emergency Rule AQ240E3, which was effective August 25, 2005, and published in the September 20, 2005, issue of the *Louisiana Register*. The basis and rationale for this rule is to allow the department to review emission factor changes on a case-by-case basis prior to any actions taken by the department.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on November 29, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ240. Such comments must be received no later than December 6, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ240. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. – C.10. ...

11. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be promulgated or revised. Emissions increases due solely to a change in AP-42 factors do not constitute violations of the air permit. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:** (October 2005), LR 31:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**LOG #: AQ240

Person

Preparing

Statement: Sonya EasternDept.: Environmental QualityPhone: (225) 219-3937Office: Office of Environmental Compliance

Return

Address: P. O. Box 4312
Baton Rouge, Louisiana 70821

Rule

Title: Emissions Factors
(LAC 33:III.501.C.11)

Date Rule

Takes Effect: Upon promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is potential for an increase in revenue collections of the state. In some instances, in the case where facility emission changes have occurred for reasons other than due solely to emissions factor changes, there is a potential that these facilities might face enforcement action including penalties. Monies recovered from civil penalties would accrue to the Hazardous Waste Site Cleanup Fund. There will be no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is a potential cost to directly affected persons or non-governmental groups. For some facilities that have emissions changes that are not due solely to emission factor changes, they face potential enforcement actions, including penalties. Some such facilities may elect to reduce or cease operations in cases where substantial penalties are possible, which could

have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have no effect on competition or employment.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule proposal is set forth to clarify requirements specified in LAC 33:III.919, concerning emission inventories, and LAC 33:III.507.H, concerning annual compliance certification. The intent of this rule is to permit the department to determine the actual basis of apparent changes in emissions when there is an emission limit discrepancy between a facility's permitted limit (pursuant to Chapter 5) and the emission estimate reported in the facility's emission inventory statement (pursuant to Chapter 9). This rule will provide a mechanism which would allow the department an opportunity to assess and validate the basis of the noted emission level change(s).

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The rule will clarify how facility compliance is to be assessed when prescribed emission factors are changed. Emission factors set forth in the EPA-approved Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be revised. The department realizes that a periodic review of the approved AP-42 factors or department estimation methods may cause such emission factors to be changed upward or downward due to receipt of improved data. Emissions changes due solely to changes in AP-42 factors, for some facilities, may result in changes in calculations of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some affected facilities may elect to reduce or cease operations due to the economic burden of these enforcement actions. This would have economic consequences for the firms involved, as well as their employees, suppliers, and customers. Adding the proposed regulation allows the department to review these emission factor changes on a case-by-case basis.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, the proposed rule will not result in any increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 05-06	FY 06-07	FY 07-08
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There will be no increase or decrease in costs to implement the proposed action.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 05-06	FY 06-07	FY 07-08
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are needed to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated impact of the proposed action on local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 05-06	FY 06-07	FY 07-08
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
RESTRICTED FUNDS* _____			
FEDERAL FUNDS _____			
LOCAL FUNDS _____			
TOTAL	0	0	0

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There is potential for an increase in revenue collections of the state. In some instances, in the case where facility emission changes have occurred for reasons other than due solely to emissions factor changes, there is a potential that these facilities might face enforcement action including penalties. Monies recovered from civil penalties would accrue to the Hazardous Waste Site Cleanup Fund. There will be no effect on revenue collections of local governmental units.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There is a potential cost to directly affected persons or non-governmental groups. For some facilities that have emissions changes that are not due solely to emission factor changes, they face potential enforcement actions, including penalties. Some such facilities may elect to reduce or cease operations in cases where substantial penalties are possible, which could have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no impact on receipts and/or income to these groups resulting from this rule change.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed action will have no impact on competition or employment.